IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8408 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

A N RAJGURU

Versus

PRINCIPAL TECHNICAL EDUCATION BOARD

Appearance:

1. Special Civil Application No. 8408 of 1991

MR YN OZA for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 07/11/2003

ORAL JUDGEMENT

This petition is filed under Article 226 of the Constitution of India praying for quashing and setting aside the order of termination dated 30.10.1991 and Government Notification dated 22.10.1991 and seeking direction to the respnodents to allow the petitioner to work as Lecturer in Electrical Engineering at Government Polytechnic at Porbandar with all consequential benefits. By way of an amendment to the petition, the petitioner

has also prayed for the direction to the respondents to regularise the services of the petitioner.

2. It is the case of the petitioner that the petitioner had applied for Lecturer post pursuant to advertisement given by the Director, Technical Education Board, Gandhinagar. As per the said advertisement, the qualification required for appointment to the post of Lecturer in Electrical Engineering in Government Polytechnic was either Bachelor of Engineering with Second Class and experience of three years or Diploma in Polytechnic and seven years experience. The petitioner is having First Class in Diploma in Polytechnic and having experience of 7 years and after going through the process of interview the petitioner was appointed as Lecturer in Electrical Engineering at the Government Polytechnic at Porbandar by order dated 24.7.1984 with effect from 31.7.1984.

3. It is further stated that initially the appointment was only for a period of 12 months and the appointment was strictly on adhoc basis. It was further stated that the appointment of the petitioner was only for the period till the regular candidate selected by the Gujarat Public Service Commission was available for appointment. It was also stated that till the date of filing of the petition no appointment had been made by the Gujarat Public Service Commission for the post of Lecturer in Electrical Engineering. For the period from 1984 to 1991 several representations were made by the petitioner from time to time for regularisation of his appointment. The petitioner was either not called for interview or at times his salary was stopped and after persuasion with the respondent authorities the petitioner was allowed to continue as Lecturer on adhoc basis. It is further stated that by Government Notification dated 22.10.1991 the petitioner was appointed as Lecturer in Government Polytechnic College, Porbandar only on adhoc basis. However, by Office order dated 30.10.1991 the petitioner was terminated and it is this termination order which is under challenge in the present petition.

4. Mr. Saurabh Mehta, learned advocate appearing for Mr. YN Oza, learned Senior Counsel for the petitioner has submitted that the petition was admitted by this Court on 1.4.1992 and at the time of admission of the petition, this Court (Coram: J.M. Panchal, J.) has passed the following order;

"Rule.

By way of interim relief, the petitioner is directed to be taken back in service and continued in service. The petitioner's services should not be terminated till regularly selected G.P.S.C. candidate is available or till the petitioner's post is to be filled in by any other regularly selected candidate. As and when such candidate is available, services of the petitioner will be terminated without seeking any permission from this Court.

D.S. permitted."

5. Mr. Mehta has submitted that he is not aware about the present position, as to whether after 1992 any regular appointment is made or nor and whether the petitioner is in service. Nobody is present on behalf of the State when the matter is called out twice in course of the day and hence it is not ascertained as to whether any regular appointment has been made in respect of the post of Lecturer in Government Polytechnic, Porbandar. Since the matter is of 1992 and more than 11 years have passed, the Court is not inclined to adjourn the matter. Hence, in the larger interests of the parties, the Court is disposing of this petition with a direction to the respondents that since the petitioner was ordered to be taken back in service and if he is in the service at present, his services should not be terminated till regularly selected GPSC candidate is available or till the petitioner's post is to be filled in by other regularly selected candidate. It is also made clear that if regularly selected GPSC candidate is available or the said post is to be filled-in by any other regularly selected candidate, the respondent authorities are not required to seek any permission or order from this Court for terminating the services of the petitioner. This order will not, however, operate if the regularly selected GPSC candidate was available or the petitioner's post was filled-in by other regularly selected candidate and the petitioner is no longer in service.

6. In view of the aforesaid direction, the present petition is disposed of in the above terms. No other submissions are made by either of the parties and hence the relief prayed for is granted to the above extent.

7. The petition is partly allowed. Rule is made absolute to the above extent with no order as to costs.

rmr. [K.A. Puj, J.]